



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,507	12/21/2001	Donald E. Bobbitt	42072	2198

1609 7590 12/31/2003

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Sk

Office Action Summary

Application No. 10/024,507		Applicant(s) BOBBITT, DONALD E.	
Examiner Winnie Yip		Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on October 1, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

1. Claims 1-7, 10-11, 13-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by White (US Patent No. 5,156,454) .

White shows and discloses a light fixture foundation comprising: a hollow shaft (12) having a tubular wall extending along a central longitudinal axis, a plurality of cableway openings (14) extending through the tubular wall along axes substantially perpendicular to the central longitudinal axis, wherein the cableway openings (14) being located substantially in a same lever but laterally spaced from each other, at least two cableway openings (14) extending through the tubular wall along two axes substantial perpendicular to each other which are non-coaxial as claimed, at least two cableways (18) supporting electrical wiring (40) and being received in the respective cableway openings, said cableways being substantially at a same vertical lever such that the cableways are positioned co-planar with respect to each other, and a support member (22) for supporting a lighting assembly (30) coupled to the shaft, said support member having a passageway (26) in communication with the hollow shaft to receive the cableways such that the cableways are extended through the passageway.

Claim Rejections - 35 USC § 103

2. Claims 1-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbell Power system, Inc. (see Lighting Foundations, CHANCE, Bulletin 2-9705).

Art Unit: 3637

Hubbell Power Systems, Inc. (see attachment) teaches installing on site a lighting fixture foundation comprising a method of excavating a trench (a) having a depth and a width sufficiently receiving the lighting fixture foundation, the lighting fixture foundation comprising an elongated hollow shaft (b) having cableway openings (c) being precut to extend through opposite surfaces of the tubular wall of the shaft, wherein the cableway openings are aligned in a same lever, an anchor (d) at the lower end of the hollow shaft for driving and supporting the hollow shaft through the bottom the trench into the ground, a support member being a base plate (e) fixed to an axial upper end of the shaft, the base plate having notches (f) to receive bolts (g) for releasably supporting a lighting assembly thereon, the support member having a passageway (h) in communication with the hollow shaft such that cableways are extended through the cableway openings in opposite directions and the through the passageway of the support member to the lighting assembly. Wherein, Hubbell Power System teaches the lighting fixture foundation being installed by obvious alternative steps of excavating a trench in suitable depth and width, anchoring the hollow shaft in the trench by a hydraulic rotary equipment, placing cableways supporting electrical wiring in the trench on opposite sides of the shaft, inserting the cableways into the cableway openings and extending upward through the passageway of the support member, mounting a lighting assembly being coupled to the support member, and connecting the electrical wiring of the cableways with the lighting unit supported by the light support.

Hubbell Power System fails to define the hollow shaft having cableway openings formed on opposite surfaces of the hollow shaft and not co-axial such that the cableways are laterally spaced from each other as claimed for receiving cables being substantially perpendicular to the longitudinal axis of the hollow shaft and extending spaced apart without interfering with one

Art Unit: 3637

another. White teaches a lighting fixture foundation comprising a plurality of cableway openings (14) extending substantially perpendicular to the central axis of the hollow shaft and laterally spaced each other to prevent the cableways interfering with one another. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the light fixture foundation of Hubbell Power System Inc. having the hollow tubular shaft precut with at least two cableway openings laterally spaced from each other and non-coaxial (i.e. perpendicular to each other) as taught by White for receiving cableways to connect wiring without interfere each other.

Response to Arguments

3. Applicant's arguments filed October 1, 2003 have been fully considered but they are not persuasive.

a. In response to applicant's argument that White does not anticipate the claimed invention because the cableway opening (14) of White do not have laterally spaced and non-coaxial axes as recited in both independent claims 1 and 10. Notice, anticipation is established when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 221 USPQ 385, 388 (Fed. Cir. 1984). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something discloses in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. *Kalman v. Kimberly Clark Corp.*, 713 F.2d 760,772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). In this case, as mentioned by applicant, White shows the light fixture foundation having holes (14) disposed around the hollow shaft (12) at different positions

Art Unit: 3637

aground the surface of the hollow shaft. Applicant does not claim the openings must be disposed on opposite side of the hollow shaft. Therefore, the adjacent holes (14) of White are considered to be formed laterally spaced from one another since the hollow shaft is circular in shape, and the adjacent holes (14) which is disposed at 0° and 90°, or 90° and 180° are considered to have axes being non-coaxial (the axes are perpendicular to each other) but disposed co-planar as claimed. And, White teaches the openings being used for separately positioning the cableways in different position which solves the same problem of preventing the cableway interfering each other as claimed invention. So White's device is considered to read on the claimed invention.

b. In response to applicant's argument to the rejections under 35 U.S.C. 103 that there is no suggestion to combine the references of the light fixture foundation of Hubbell Power System with White, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170

Art Unit: 3637

USPQ 209 (CCPA 1971). In this case, Hubbell Power System teaches the light fixture foundation as claimed except having the cableway openings disposed laterally spaced or offset. White, as discussed above, is used to teach the light foundation (12) may have holes (14) disposed around the hollow shaft at different degrees as mentioned by applicant, notice the adjacent holes (14) are considered laterally spaced from one another since the hollow shaft is circular in shape, and have axes being non-coaxial (the axes are perpendicular to each other) but disposed co-planar as claimed. White teaches the holes (14) “laterally therethrough ... for introduction of appropriate power lines or electrical underground cabling or electrical conductors (18)”. Since the holes of White are disposed laterally spaced for receiving cableways in separated positions, the cableways inherently are positioned in separated position without interfering each other as claimed. Therefore, White is considered as a teaching reference to teach solving a same problem caused by the device of Hubbell Power System. It appears that the invention would perform equally well if hollow shaft formed with more openings laterally offset to receive cableways from different directions as taught by White such that the cableways are inherently positioned without interfering each other as claimed invention.

Therefore, the rejections are deemed proper.

ACTION IS MADE FINAL

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

Art Unit: 3637

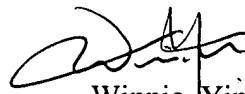
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
December 24, 2003